

Go It, Man; Go It, Bear ^{Post} 12/13/66

The quarrel between Sen. Robert Kennedy and FBI Director J. Edgar Hoover is sensational, although perhaps not really very significant. The spectacle of an Attorney General—or at least a former Attorney General—talking back to the FBI chief is, to be sure, a curiosity. The controversy, however, seems to boil down to nothing more than whether the Senator, when he was at the head of the Department of Justice, knew that the FBI was systematically violating the law and the proprieties by tapping telephones and bugging private premises.

Mr. Hoover has produced some persuasive evidence to show that he afforded his superior in the Department of Justice ample opportunity to know what was going on. So, if we are to accept Mr. Kennedy's assertion that he was innocently ignorant, we must accept also his candid acknowledgment: "Perhaps I should have known, and since I was Attorney General, I certainly take responsibility for it, but the plain fact is that I did not know."

The plain fact is that a long series of Attorneys General have not known, or have not wanted to know, or have not cared, or have not dared to challenge, what the FBI has done. And the plain fact also is that for some 30 years the FBI, by its own admission, has been breaching an Act of Congress by tapping telephones. Several Attorneys General, along with Mr. Hoover, have attempted to justify this violation by declaring that it is undertaken only in connection with national security. But there is not a syllable in the law and not a word in the decisions of the Supreme Court which warrants an exception in security cases. Whenever anyone taps a telephone without authorization, and makes use of what he hears, for whatever reason, he is guilty of a crime.

There is no Act of Congress breached by the practice known as bugging; but when it involves a trespass on private premises as is often the case, it violates a right of privacy protected by the Fourth Amendment. President Johnson has now flatly forbidden this practice except in security cases. He, too, is without authority to make the exception.

The one saving feature of the Hoover-Kennedy quarrel is that it brings into the open a subject better discussed than submerged. Just about everyone in Washington—not Attorneys General alone—has known perfectly well for many years that investigating and law enforcement agencies here have used taps and bugs. As Chairman Celler of the House Judiciary Committee put it broadly a day or two ago, "Members of Congress are afraid to pick up a phone and do their regular chores these days for fear somebody is listening." We think that is not a healthy situation. It is high time somebody belled the cat.